

---

---

# HOUSE BILL No. 1193

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-8-10.

**Synopsis:** ICHIA assessments, tax credits, and limits. Limits the annual total assessment to members of the comprehensive health insurance association (ICHIA) to \$100,000,000. Provides that the amount of an annual net loss of more than \$100,000,000 shall be assessed to and paid from the state general fund. Limits payments under an association policy to \$1,000,000 during an insured's lifetime. Provides for the assignment of unused tax credits by a member of ICHIA for use by a business entity during the same taxable year.

**Effective:** July 1, 2004.

---

---

## Ripley

---

---

January 13, 2004, read first time and referred to Committee on Insurance, Corporations and Small Business.

---

---

C  
o  
p  
y



Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## HOUSE BILL No. 1193

---

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 27-8-10-2.1, AS AMENDED BY P.L.178-2003,  
2       SECTION 63, AND AS AMENDED BY P.L.193-2003, SECTION 4,  
3       IS CORRECTED AND AMENDED TO READ AS FOLLOWS  
4       [EFFECTIVE JULY 1, 2004]: Sec. 2.1. (a) There is established a  
5       nonprofit legal entity to be referred to as the Indiana comprehensive  
6       health insurance association, which must assure that health insurance  
7       is made available throughout the year to each eligible Indiana resident  
8       applying to the association for coverage. All carriers, health  
9       maintenance organizations, limited service health maintenance  
10      organizations, and self-insurers providing health insurance or health  
11      care services in Indiana must be members of the association. The  
12      association shall operate under a plan of operation established and  
13      approved under subsection (c) and shall exercise its powers through a  
14      board of directors established under this section.

15      (b) The board of directors of the association consists of ~~seven (7)~~  
16      nine (9) members whose principal residence is in Indiana selected as  
17      follows:

2004

IN 1193—LS 6228/DI 97+



C  
o  
p  
y

(1) ~~Three (3)~~ Four (4) members to be appointed by the commissioner from the members of the association, one (1) of which must be a representative of a health maintenance organization.

(2) Two (2) members to be appointed by the commissioner shall be consumers representing policyholders.

(3) Two (2) members shall be the state budget director or designee and the commissioner of the department of insurance or designee.

(4) *One (1) member to be appointed by the commissioner must be a representative of health care providers.*

The commissioner shall appoint the chairman of the board, and the board shall elect a secretary from its membership. The term of office of each appointed member is three (3) years, subject to eligibility for reappointment. Members of the board who are not state employees may be reimbursed from the association's funds for expenses incurred in attending meetings. The board shall meet at least semiannually, with the first meeting to be held not later than May 15 of each year.

(c) The association shall submit to the commissioner a plan of operation for the association and any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation becomes effective upon approval in writing by the commissioner consistent with the date on which the coverage under this chapter must be made available. The commissioner shall, after notice and hearing, approve the plan of operation if the plan is determined to be suitable to assure the fair, reasonable, and equitable administration of the association and provides for the sharing of association losses on an equitable, proportionate basis among the member carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers. If the association fails to submit a suitable plan of operation within one hundred eighty (180) days after the appointment of the board of directors, or at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall adopt rules under IC 4-22-2 necessary or advisable to implement this section. These rules are effective until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner. The plan of operation must:

(1) establish procedures for the handling and accounting of assets and money of the association;

(2) establish the amount and method of reimbursing members of the board;

C  
o  
p  
y



(3) establish regular times and places for meetings of the board of directors;

(4) establish procedures for records to be kept of all financial transactions, and for the annual fiscal reporting to the commissioner;

(5) establish procedures whereby selections for the board of directors will be made and submitted to the commissioner for approval;

(6) contain additional provisions necessary or proper for the execution of the powers and duties of the association; and

(7) establish procedures for the periodic advertising of the general availability of the health insurance coverages from the association.

(d) The plan of operation may provide that any of the powers and duties of the association be delegated to a person who will perform functions similar to those of this association. A delegation under this section takes effect only with the approval of both the board of directors and the commissioner. The commissioner may not approve a delegation unless the protections afforded to the insured are substantially equivalent to or greater than those provided under this chapter.

(e) The association has the general powers and authority enumerated by this subsection in accordance with the plan of operation approved by the commissioner under subsection (c). The association has the general powers and authority granted under the laws of Indiana to carriers licensed to transact the kinds of health care services or health insurance described in section 1 of this chapter and also has the specific authority to do the following:

(1) Enter into contracts as are necessary or proper to carry out this chapter, subject to the approval of the commissioner.

(2) Sue or be sued, including taking any legal actions necessary or proper for recovery of any assessments for, on behalf of, or against participating carriers.

(3) Take legal action necessary to avoid the payment of improper claims against the association or the coverage provided by or through the association.

(4) Establish a medical review committee to determine the reasonably appropriate level and extent of health care services in each instance.

(5) Establish appropriate rates, scales of rates, rate classifications and rating adjustments, such rates not to be unreasonable in relation to the coverage provided and the reasonable operational

**C  
O  
P  
Y**



expenses of the association.

(6) Pool risks among members.

(7) Issue policies of insurance on an indemnity or provision of service basis providing the coverage required by this chapter.

(8) Administer separate pools, separate accounts, or other plans or arrangements considered appropriate for separate members or groups of members.

(9) Operate and administer any combination of plans, pools, or other mechanisms considered appropriate to best accomplish the fair and equitable operation of the association.

(10) Appoint from among members appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the association, policy and other contract design, and any other function within the authority of the association.

(11) Hire an independent consultant.

(12) Develop a method of advising applicants of the availability of other coverages outside the association. ~~and may promulgate a list of health conditions the existence of which would deem an applicant eligible without demonstrating a rejection of coverage by one (1) carrier.~~

(13) Provide for the use of managed care plans for insureds, including the use of:

(A) health maintenance organizations; and

(B) preferred provider plans.

(14) Solicit bids directly from providers for coverage under this chapter.

(f) *The board shall obtain an actuarial recommendation for development of an equitable methodology for determination of member assessments.*

(g) Rates for coverages issued by the association may not be unreasonable in relation to the benefits provided, the risk experience, and the reasonable expenses of providing the coverage. Separate scales of premium rates based on age apply for individual risks. Premium rates must take into consideration the extra morbidity and administration expenses, if any, for risks insured in the association. The rates for a given classification may ~~not~~ be:

(1) *not more than one hundred fifty percent (150%) of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year for an insured whose family income is less than three hundred fifty-one percent (351%) of the federal income*

C  
o  
p  
y



1 poverty level for the same size family; and

2 (2) an amount equal to:

3 (A) not less than one hundred fifty-one percent (151%); and

4 (B) not more than two hundred percent (200%);

5 of the average premium rate for that class charged by the five (5)  
6 carriers with the largest premium volume in the state during the  
7 preceding calendar year, for an insured whose family income is  
8 more than three hundred fifty percent (350%) of the federal  
9 income poverty level for the same size family.

10 In determining the average rate of the five (5) largest carriers, the rates  
11 charged by the carriers shall be actuarially adjusted to determine the  
12 rate that would have been charged for benefits identical to those issued  
13 by the association. All rates adopted by the association must be  
14 submitted to the commissioner for approval.

15 ~~(g)~~ (h) Following the close of the association's fiscal year, the  
16 association shall determine the net premiums, the expenses of  
17 administration, and the incurred losses for the year. **The amount of any**  
18 **net loss that does not exceed one hundred million dollars**  
19 **(\$100,000,000)** shall be assessed by the association to all members in  
20 proportion to their respective shares of total health insurance  
21 premiums, excluding premiums for Medicaid contracts with the state  
22 of Indiana, received in Indiana during the calendar year (or with paid  
23 losses in the year) coinciding with or ending during the fiscal year of  
24 the association or any other equitable basis as may be provided in the  
25 plan of operation. ~~For self-insurers, health maintenance organizations,~~  
26 ~~and limited service health maintenance organizations that are~~  
27 ~~members of the association, the proportionate share of losses must be~~  
28 ~~determined through the application of an equitable formula based~~  
29 ~~upon claims paid, excluding claims for Medicaid contracts with the~~  
30 ~~state of Indiana, or the value of services provided.~~ In sharing losses,  
31 the association may abate or defer in any part the assessment of a  
32 member, if, in the opinion of the board, payment of the assessment  
33 would endanger the ability of the member to fulfill its contractual  
34 obligations. The association may also provide for interim assessments  
35 against members of the association if necessary to assure the financial  
36 capability of the association to meet the incurred or estimated claims  
37 expenses or operating expenses of the association until the association's  
38 next fiscal year is completed. *Except as provided in sections 12 and 13*  
39 *of this chapter*, net gains, if any, must be held at interest to offset future  
40 losses or allocated to reduce future premiums. Assessments must be  
41 determined by the board members specified in subsection (b)(1),  
42 subject to final approval by the commissioner. **The amount of a net**

C  
o  
p  
y



1 **loss that exceeds one hundred million dollars (\$100,000,000) shall**  
 2 **be assessed to and paid from the state general fund.**

3 ~~(h)~~ (i) The association shall conduct periodic audits to assure the  
 4 general accuracy of the financial data submitted to the association, and  
 5 the association shall have an annual audit of its operations by an  
 6 independent certified public accountant.

7 ~~(i)~~ (j) The association is subject to examination by the department  
 8 of insurance under IC 27-1-3.1. The board of directors shall submit, not  
 9 later than March 30 of each year, a financial report for the preceding  
 10 calendar year in a form approved by the commissioner.

11 ~~(j)~~ (k) All policy forms issued by the association must conform in  
 12 substance to prototype forms developed by the association, must in all  
 13 other respects conform to the requirements of this chapter, and must be  
 14 filed with and approved by the commissioner before their use.

15 ~~(k)~~ (l) The association may not issue an association policy to any  
 16 individual who, on the effective date of the coverage applied for, does  
 17 not meet the eligibility requirements of section 5.1 of this chapter.

18 ~~(l) The association shall pay an agent's insurance producer's~~  
 19 ~~referral fee of twenty-five dollars (\$25) to each insurance agent~~  
 20 ~~producer who refers an applicant to the association if that applicant~~  
 21 ~~is accepted.~~

22 (m) The association and the premium collected by the association  
 23 shall be exempt from the premium tax, the adjusted gross income tax,  
 24 or any combination of these upon revenues or income that may be  
 25 imposed by the state.

26 (n) Members who after July 1, 1983, during any calendar year, have  
 27 paid one (1) or more assessments levied under this chapter may either:

28 (1) take a credit against premium taxes, adjusted gross income  
 29 taxes, or any combination of these, or similar taxes upon revenues  
 30 or income of member insurers that may be imposed by the state,  
 31 up to the amount of the taxes due for each calendar year in which  
 32 the assessments were paid and for succeeding years until the  
 33 aggregate of those assessments have been offset by either credits  
 34 against those taxes or refunds from the association; or

35 (2) any member insurer may include in the rates for premiums  
 36 charged for insurance policies to which this chapter applies  
 37 amounts sufficient to recoup a sum equal to the amounts paid to  
 38 the association by the member less any amounts returned to the  
 39 member insurer by the association, and the rates shall not be  
 40 deemed excessive by virtue of including an amount reasonably  
 41 calculated to recoup assessments paid by the member.

42 (o) The association shall provide for the option of monthly

C  
o  
p  
y



collection of premiums.

SECTION 2. IC 27-8-10-2.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.2. (a) This section applies to:**

- (1) taxable years beginning after December 31, 2004; and**
- (2) a tax credit that accrues after December 31, 2004.**

**(b) A member that:**

- (1) has paid an assessment levied under this chapter during a calendar year; and**
- (2) does not, in the member's taxable year during which the assessment was paid, have tax liability against which a credit may be applied under section 2.1(n) of this chapter;**

**may assign the member's unused tax credit to a business entity that pays premium taxes, adjusted gross income taxes, or similar taxes upon revenues or income of the business entity that may be imposed by the state.**

**(c) The amount of the credit that may be assigned by a member under subsection (b) is equal to:**

- (1) the tax credit available to the member for the calendar year under section 2.1(n) of this chapter; minus**
- (2) the amount of credit taken against taxes by the member for the calendar year under section 2.1(n) of this chapter.**

**(d) Subject to subsection (c), a business entity that is assigned a tax credit under this section is entitled to claim the tax credit against the business entity's tax liability for the taxable year during which the tax credit, if not assigned, would have been available to the assigning member.**

SECTION 3. IC 27-8-10-2.3, AS ADDED BY P.L.167-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.3. A member shall, not later than October 31 of each year, certify an independently audited report to the:**

- (1) association;**
- (2) legislative council; and**
- (3) department of insurance;**

**of the amount of tax credits taken against assessments by the member under ~~section~~ sections 2.1(n)(1) and 2.2 of this chapter during the previous calendar year.**

SECTION 4. IC 27-8-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4. (a) Subject to the limitation provided in subsection (c), an association policy offered in accordance with this chapter must impose a five hundred dollar (\$500) deductible on a per person per policy year basis. The deductible must**

C  
o  
p  
y



be applied to the first five hundred dollars (\$500) of eligible expenses incurred by the covered person.

(b) Subject to the limitation provided in subsection (c), a mandatory coinsurance requirement shall be imposed at the rate of twenty percent (20%) of eligible expenses in excess of the mandatory deductible.

(c) The maximum aggregate out-of-pocket payments for eligible expenses by the insured in the form of deductibles and coinsurance may not exceed one thousand five hundred dollars (\$1,500) per individual or two thousand five hundred dollars (\$2,500) per family, per policy year.

(d) **The maximum amount that may be paid under an association policy for eligible expenses of an insured during the insured's lifetime may not exceed one million dollars (\$1,000,000). This subsection applies to payment for eligible expenses incurred after June 30, 2004.**

SECTION 5. [EFFECTIVE JULY 1, 2004] (a) **This SECTION applies to a tax credit that accrues under IC 27-8-10-2.1(n) before January 1, 2005.**

(b) **As used in this SECTION, "member" means an insurer, a health maintenance organization, or another entity that is a member of the Indiana comprehensive health insurance association under IC 27-8-10-2.1(a).**

(c) **A member that:**

(1) **pays an assessment levied under IC 27-8-10 during a calendar year; and**

(2) **does not, in the member's calendar year during which the assessment was paid or in succeeding calendar years ending before January 1, 2005, have tax liability against which a credit may be applied under IC 27-8-10-2.1(n);**

**may assign the member's unused tax credit to a business entity that pays premium taxes, adjusted gross income taxes, or similar taxes upon revenues or income of the business entity that may be imposed by the state.**

(d) **The maximum amount of a tax credit accruing under IC 27-8-10-2.1(n) before January 1, 2005, that a member may assign in a calendar year after December 31, 2004, under this SECTION is equal to:**

(1) **the remainder of:**

(A) **the amount of the credit accruing to the member; minus**

(B) **the amount of the credit applied by the member against taxes; multiplied by**

**C  
o  
p  
y**



- 1           **(2) twenty percent (20%).**
- 2           **(e) Subject to subsection (d), a business entity to which a tax**
- 3           **credit is assigned under this SECTION is entitled to apply the tax**
- 4           **credit against the business entity's tax liability for the calendar**
- 5           **year during which the tax credit is assigned under subsection (d).**
- 6           **(f) This SECTION expires December 31, 2009.**

**C  
o  
p  
y**

